

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHAEL A. CACCIOTTI
Deputy Attorney General
4 State Bar No. 129533
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2932
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011- 992**

13 **DONNIE LYNN WARD**
aka DONNIE LYNN LINDLEY
14 2425 Corto Street
Bakersfield, CA 93306

A C C U S A T I O N

15 Registered Nurse License No. 336592

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about September 30, 1981, the Board issued Registered Nurse License No.
23 336592 to Donnie Lynn Ward aka Donnie Lynn Lindley (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on December 31, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions. . . ."

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1442 states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

9. California Code of Regulations, title 16, section 1443 states:

1 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
2 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
3 exercised by a competent registered nurse as described in Section 1443.5."

4 10. California Code of Regulations, title 16, section 1443.5 states:

5 "A registered nurse shall be considered to be competent when he/she consistently
6 demonstrates the ability to transfer scientific knowledge from social, biological and physical
7 sciences in applying the nursing process, as follows:

8 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
9 and behavior, and through interpretation of information obtained from the client and others,
10 including the health team.

11 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
12 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
13 for disease prevention and restorative measures.

14 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
15 treatment to the client and family and teaches the client and family how to care for the client's
16 health needs.

17 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
18 subordinates and on the preparation and capability needed in the tasks to be delegated, and
19 effectively supervises nursing care being given by subordinates.

20 "(5) Evaluates the effectiveness of the care plan through observation of the client's
21 physical condition and behavior, signs and symptoms of illness, and reactions to treatment and
22 through communication with the client and health team members, and modifies the plan as
23 needed.

24 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
25 health care or to change decisions or activities which are against the interests or wishes of the
26 client, and by giving the client the opportunity to make informed decisions about health care
27 before it is provided."

28 ///

1 **COST RECOVERY**

2 11. Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **KERN MEDICAL CENTER**

7 **EMERGENCY PSYCHIATRIC ASSESSMENT CENTER**

8 12. On and between January 10, 2006 through on or about December 28, 2007,
9 Respondent was employed at Kern Medical Center (KMC), Emergency Psychiatric Assessment
10 Center (EPAC), then, part of the Emergency Department (ED). Respondent's official job title
11 was Hospital Staff Nurse II.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Gross Negligence)**

14 13. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1),
15 and California Code of Regulations, title 16, section 1442, on the grounds of unprofessional
16 conduct, in that on or about October 29, 2007, while on duty as a charge nurse at KMC's EPAC,
17 Respondent committed acts of gross negligence, an extreme departure from the standard of care,
18 as follows:

19 a. On or about October 29, 2007, a female patient, 57 years old, was presented to
20 Respondent for care. The patient was transported by ambulance and was escorted from her home
21 by a Mental Health Case Worker and Emergency Medical Technicians (EMTs). The Case
22 Worker identified the patient to Respondent as a "5150 patient on hold."¹ Without triaging and
23 "safe searching"² the patient, Respondent directed the EMT's to deliver the patient to the
24 Emergency Room (ER) for medical clearance. After ER medical clearance, the patient was

25
26 ¹ 5150 refers to Welfare and Institutions Code § 5150 which provides authority for a
27 person to be taken into custody and placed in a designated facility to be assessed for continuation
28 of the involuntary 72-hour detention for treatment and evaluation.

² Safe searching is searching patients brought into the facility to be sure they do not have
access to contraband which could harm themselves or others.

1 redirected back to EPAC. While the patient was in a padded room waiting for EPAC assessment,
2 she retrieved and ingested medications, three (3) bottles of pills, from her purse and overdosed.
3 Respondent admitted to failing to transport the patient via "nurse to nurse" delivery. Instead, she
4 directed the EMTs to transfer the patient to the ER for medical clearance.

5 SECOND CAUSE FOR DISCIPLINE

6 (Incompetence)

7 14. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1),
8 and California Code of Regulations, title 16, sections 1443 and 1443.5, on the grounds of
9 unprofessional conduct, in that while on duty as a charge nurse at KMC's EPAC, Respondent
10 committed acts of incompetence, as follows:

11 a. On or about October 20, 2007, using her cell phone, Respondent took two (2) photos
12 of a male patient, brought in by Bakersfield Police Department for aggressive and violent
13 behavior. Respondent violated patient privacy, a departure from accepted standards of nursing
14 practice, which failed to reflect that degree of learning, skill, care and experience ordinarily
15 possessed and exercised by a competent registered nurse.

16 b. On or about October 30, 2007, Respondent in discharge health care instructions to an
17 18 year old female wrote "Be Good," an inadequate and inappropriate instruction. Respondent's
18 instructions were incomplete as well as substandard, and fail to reflect the degree of skill and
19 learning expected of a competent registered nurse.

20 c. On or about November 8, 2007, Respondent disclosed highly confidential information
21 about a female 15 year old patient, by insensitively blurting it out to her parents, in an abrupt and
22 insensitive manner. Respondent's actions could have caused emotional harm to the parents and
23 potentially to the female patient. Respondent failed to exercise that degree of learning, skill, care
24 and experience ordinarily possessed and exercised by a competent registered nurse.

25 THIRD CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct)

27 15. Respondent is subject to disciplinary action under section 2761, subdivision (a), in
28 that in or about October and November 2007, while on duty as a charge nurse at KMC's EPAC,

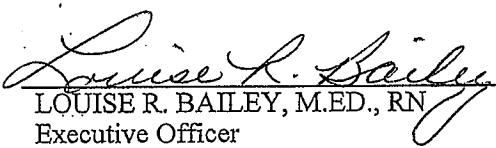
1 Respondent committed acts of unprofessional conduct, through communications towards her co-
2 workers, that created an atmosphere of intimidation and disrespect in the hospital's work
3 environment, jeopardizing patient health care. Respondent made repeated remarks, some in
4 sarcasm, about the co-workers reporting her to "patient's rights," documenting her, and
5 backstabbing her. In these outbursts of anger and frustration, Respondent called her co-workers
6 inappropriate names. Respondent, moreover, ignored staff nurses concerns about patient
7 placement and assignments in an area of the EPAC commonly referred to as the "backpack"
8 extension. Specifically, on November 16, 2007, Respondent sent several patients to the staff
9 nurse working in the "backpack" extension, although the staff nurse in the backpack area had
10 asked Respondent to give her time to assess each patient before sending her more patients.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board issue a decision:

- 14 1. Revoking or suspending Registered Nurse License No. 336592, issued to Donnie
15 Lynn Ward aka Donnie Lynn Lindley;
- 16 2. Ordering Donnie Lynn Ward aka Donnie Lynn Lindley to pay the Board the
17 reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: 6/20/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

22
23
24
25 LA2010600697
26 60566639.doc
27
28